

7100svc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER B. MICHELSEN

Plaintiff,

-against-

ROBERT CHRISTOPHER MANAGEMENT CORP.,
and ROBERT CHRISTOPHER MARINE GROUP,
INC., d/b/a Robert Christopher Marine
Yacht Sales, and RCNYS, and Robert
Christopher Yachts,

Defendants.

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08 CIV. 3560
(GEL)

WAIVER OF SERVICE OF SUMMONS

TO: Purrington & McConnell / Attorneys for Plaintiff
82 Wall Street
New York, New York 10005

I acknowledge receipt of your request that I waive service of a summons in the above-captioned action, which is case number (docket number) **08 Civ. 3560 (GEL)** in the United States District Court for the Southern District of New York. I have also received a copy of the Complaint in the action, two copies of this instrument (Waiver), and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service on me of a summons and an additional copy of the Complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4, Federal Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court, except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an Answer or Motion under Rule 12, F.R.C.P., is not served upon you within 60 days after **April 15, 2008**, the date on which the Notice and Request was sent, or within 90 days after that date if the request was sent outside the United States.

Signature: 

Printed/Typed Name: **Robert Michawo**

Date of Signature: **June 12, 2008**

Relationship to Defendant, if responding on behalf of an entity:

..... **PRESIDENT RCNYS**

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DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service of a summons must within the time specified on the Waiver form, serve on the plaintiff's attorney a response to the complaint, and must also file a signed copy of the response with the court. If the response (Answer or Motion) is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for Waiver of service was received.

F.R.C.P. Rule 4(d) [Partial] Waiver of Service; Duty to Save Costs of Service; Request to Waive

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service ... and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. ... If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service ... together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.